

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

Second Appeal No.818 of 2015

Muniappan

.. Appellant/Plaintiff

Vs

1.Chennama

2.The President,
Malayanadahalli Panchayat,
Via Kaveripattinam,
Krishnagiri Taluk and District. ..Respondents/Defendants

Second Appeal filed under Section 100 C.P.C. against the judgment and decree dated 02.03.2015 passed in A.S.No.20 of 2013 on the file of the Additional Subordinate Judge, Krishnagiri, confirming the judgment and decree dated 04.01.2013 made in O.S.No.145 of 2009 on the file of the District Munsif, Krishnagiri.

For Appellant ... Mr.M.V.Krishnan

For Respondents ... Mr.V.Sekar for R1
R2 -Ex. Parte

JUDGMENT

The plaintiff, who lost before both the Courts below in the suit filed for declaration and possession and for consequential reliefs, is the appellant herein.

2.It is the specific case of the plaintiff that he is the absolute owner of the suit property, which is a natham poramboke, over which he has put up construction. The first defendant is the tenant. As the first defendant is trying to assert her title, the suit has been filed. The first defendant filed a written statement disputing the title and the alleged relationship of landlord and tenant. The trial Court dismissed the suit holding that the plaintiff has not produced any document to establish the title, which was confirmed by the lower appellate Court. The plaintiff has not proved that the suit property is situated in Survey No.142/56. Incidentally, it

has also not been proved that the first defendant is the tenant. It was also held that the boundaries as found under Ex.A1 and the suit property also differ. Challenging the same, the present appeal has been filed.

3.At the time of admission, the following substantial questions of law have been framed:

(a)Whether grant of patta by the Government for grama natham land confers title on the person who gets the patta?

(b)Whether the finding of the Courts below violated by failure to consider vital documentary evidence and oral evidence?

3.Learned counsel appearing for the appellant submits that the first defendant has not established her title. Considering the document filed coupled with the oral evidence, the suit ought to have been decreed. Per contra, learned counsel appearing for the first respondent submits that the findings being factual, no interference is required.

4. The appellant has not proved that the suit property is situated in the land for which patta has been given in his favour. Being the plaintiff, it is for him to establish his case. There is no evidence to show that the plaintiff has put up the construction in the suit property. Similarly, there is no evidence to show that there exists a relationship of landlord and tenant between the plaintiff and the first defendant. The Courts below have taken into consideration the discrepancy in the evidence of P.W.1 with respect to the survey number of the suit property. Therefore, this Court does not find any perversity in the finding rendered by the Courts below to the effect that the appellant has not proved and established the title to the suit property.

5.In such view of the matter, this Court does not find any substantial question of law involved in this appeal, warranting interference. Accordingly, the second appeal is dismissed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Additional Subordinate Judge,
Krishnagiri.

2.The District Munsif,
Krishnagiri.

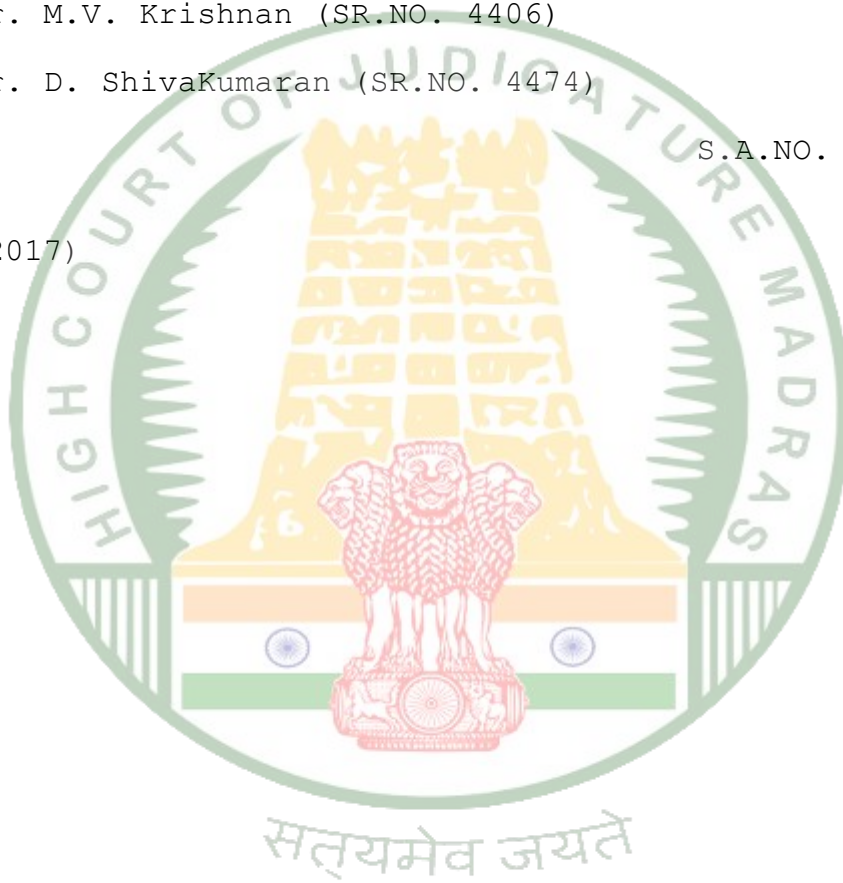
3.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr. M.V. Krishnan (SR.NO. 4406)

+1cc to Mr. D. ShivaKumaran (SR.NO. 4474)

S.A.NO. 818 of 2015

RV(CO)
VR(16/02/2017)



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